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| EXAMINER | |
|---|---|
| LIN, JASON K | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/762,812 | BAUMGARTNER ET AL. | |
| | Examiner | Art Unit | |
| | JASON K. LIN | 2425 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *18 March 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-84* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-84* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1. This office action is responsive to amendment of application No. 10/762,812 filed on 03/18/2009. **Claims 1-84** are pending and have been examined.

### *Continued Examination Under 37 CFR 1.114*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/18/2009 has been entered.

### *Response to Arguments*

3. Applicant's arguments with respect to **claims 1-84** have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1, 2, 4, 5, 7, 9-11, 16, 21, 22, 24, 25, 27, 29-31, 36, 41, 42, 44, 45, 47, 49-51, 55, 61, 62, 64, 65, 67, 69-71, 76, and 81-84** are rejected under 35 U.S.C. 102(e) as being anticipated by Miura et al. (US 7,188,356).

Consider **claims 1, 21, 41, and 61**, Miura teaches a method, user equipment, system, and machine-readable media for providing a user with

program information using an interactive television application (Figs.6A-B, 7) implemented at least partially on user equipment (Fig.4), the user equipment comprising:

a display (monitor 39-Fig.4);

control circuitry (Fig,.4) configured to:

display listings in a grid format (Figs.6A-B, 7);

allow the user to scroll program listings backwards in time (65 - Figs.6a-b, 7; Col 14: lines 13-16, Col 14: line 65 – Col 15: line 5);

determine, using a processor, that a past, unrecorded program is no longer available for viewing by the user (Col 10: lines 52-65, Col 16: line 62 - Col 17: line 3 teaches determining if a past program is not recorded and that the user cannot view it. Col 9: lines 11-13, Col 12: lines 29-32 teaches processor that is used to execute the present invention); and

generate, in response to the determining, an indicator that indicates the past, unrecorded program is no longer available for viewing by the user (73-Fig.6a; Col 16: line 62 – Col 17: line 3 teaches a blank cell of an unrecorded program where the program name is not indicated within the cell),

wherein the display program listings, when scrolled backwards in time (65 - Figs.6a-b, 7; Col 14: lines 13-16, Col 14: line 65 – Col 15: line 5), include:

at least one program of a past previously recorded program that is available for viewing by the user (Figs.6a-b, 7; Col 14: lines 41-47, Col 16: lines 41-60 teaches NVOD and VOD programs are indicative of past programs that are available for viewing by the user), and

at least one cell in the grid corresponding to a program listing of the past, unrecorded program, wherein the at least one cell includes the generated indicator that indicates the past, unrecorded program is no longer available for viewing by the user (73-Fig.6a; Col 16: line 62 – Col 17: line 3 teaches a blank cell of an unrecorded program where the program name is not indicated within the cell).

Consider **claims 2, 22, 42, and 62**, Miura teaches wherein a displayed list includes at least one video-on-demand program that is available for viewing by a user (69 - Fig.6B; Col 14: lines 41-47).

Consider **claims 4, 24, 44, and 64,** Miura teaches at least one of the at least one previously recorded program is stored on a network-based video recorder (Fig.2; Col 6: lines 1-28, Col 14: lines 41-47, Col 17: lines 4-14 teaches stored programming that can be requested and sent to the user. *These programs were recorded and stored by the center device*).

Consider **claims 5, 25, 45, and 65,** Miura teaches allowing the user to select for viewing a previously recorded program associated with the displayed program listings (Fig.2, Figs.6a-b, 70; Col 6: lines 1-28, Col 14: lines 41-47, Col 17: lines 4-14 teaches stored programming that can be requested and sent to the user for viewing).

Consider **claims 7, 27, 47, and 67,** Miura teaches wherein at least one of the program listings is associated with a visual indicator, wherein the visual indicator indicates that the associated program has been recorded (NVOD, VOD - Figs.6a-b, 70; Col 6: lines 1-28, Col 14: lines 41-47, Col 17: lines 4-14).

Consider **claims 9, 29, 49, and 69,** Miura teaches wherein at least one of the program listing is associated with a visual indicator, wherein the visual indicator indicates that the associated program is a video-on-demand program (NVOD, VOD - Figs.6a-b, 70; Col 6: lines 1-28, Col 14: lines 41-47, Col 17: lines 4-14).

Consider **claims 10, 30, 50, and 70,** Miura teaches wherein the allowing the user to scroll the program listings backwards in time (65 - Figs.6a-b, 7; Col 14: lines 13-16, Col 14: line 65 – Col 15: line 5) comprises displaying program listings of previously recorded programs (Figs.6a-b, 7; Col 14: lines 41-47, Col

16: lines 41-60 teaches NVOD and VOD programs are indicative of past programs that are available for viewing by the user).

Consider **claims 11, 31, 51, and 71,** Miura teaches wherein program listings include at least one video-on-demand program that is available for viewing by a user (NVOD, VOD - Figs.6a-b, 70; Col 6: lines 1-28, Col 14: lines 41-47, Col 17: lines 4-14).

Consider **claims 16, 36, 56, and 76,** Miura teaches allowing the user to schedule for recording at least one program listed in the list (Col 3: lines 24-29).

Consider **claims 81-84,** Miura teaches wherein the past, unrecorded program is indicated an empty cell (73-Fig.6a; Col 16: line 62 – Col 17: line 3 teaches a blank cell of an unrecorded program where the program name is not indicated within the cell).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 3, 6, 8, 12, 23, 26, 28, 32, 43, 46, 48, 52, 63, 66, 68, and 72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 7,188,356) in view of Young et al. (US 2003/0142957).

Consider **claims 3, 23, 43, and 63,** Miura does not explicitly teach at least one of the at least one previously recorded program is stored on a local personal video recorder.

In an analogous art Young teaches at least one of the at least one previously recorded program is stored on a local personal video recorder (Paragraph 0054 teaches a recorded program is displayed in a solid red background. Paragraph 0077 teaches recorded program on a video recorder).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Miura's system to include at least one of the at least one previously recorded program is stored on a local personal video recorder, as taught by Young, for the advantage of easily providing the user with desired accessible programming without having to utilize network transmission bandwidth, freeing more network resources for other uses.

Consider **claims 6, 26, 46, and 66,** Miura does not explicitly teach wherein at least one of the program listings is associated with a visual indicator, wherein the visual indicator indicates that the associated program is scheduled for recording.

In an analogous art, Young teaches wherein at least one of the program listings is associated with a visual indicator (Paragraph 0052; 40 – Fig.2, 3), wherein the visual indicator indicates that the associated program is scheduled for recording (Paragraph 0052; 40 – Fig.2, 3).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Miura's system to include wherein at least one of the program listings is associated with a visual indicator, wherein the visual indicator indicates that the associated program is scheduled for recording, as taught by Young, for the advantage of providing to the user at a glance that a program has already been set for recording, so that they do not have to go back and check elsewhere if they forget that recording has been scheduled, providing the user with convenience and ease of mind.

Consider **claims 8, 28, 48, and 68,** Miura does not explicitly teach wherein at least one of the program listings is associated with a visual indicator, wherein the visual indicator indicates that the associated program is currently being recorded.

In an analogous art, Young teaches wherein at least one of the program listings is associated with a visual indicator (Paragraph 0052-0053), wherein the visual indicator indicates that the associated program is currently being recorded (Paragraph 0052-0053).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Miura's system to include wherein at least one of the program listings is associated with a visual indicator, wherein the visual indicator indicates that the associated program is currently being recorded, as taught by Young, for the advantage of providing to the user at a glance that a program is being recorded, so that they do not have to go back and check elsewhere if they forget that recording has been scheduled and is already in progress, providing the user with convenience and ease of mind.

Consider **claims 12, 32, 52, and 72,** Miura teaches wherein the allowing the user to scroll the program listings backwards in time (65 - Figs.6a-b, 7; Col 14: lines 13-16, Col 14: line 65 – Col 15: line 5), but does not explicitly teach comprises displaying at least one category of previously recorded programs

In an analogous art, Young teaches displaying at least one category of previously recorded programs (Paragraph 0076 teaches displaying a menu of previously recorded programs).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Miura's system to include displaying at least one category of previously recorded programs, as taught by Young, for the advantage of providing to the user at a glance what programs has been recorded, allowing them to easily view a list of past programs and choose programming of interest.

7. **Claims 13, 33, 53, and 73** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 7,188,356) in view of Javed (US 2002/0162112).

Consider **claims 13, 33, 53, and 73,** Miura does not explicitly teach wherein at least one of the program listings is available for viewing for a limited time, the method further comprising allowing the user to extend the time of availability of said program.

In an analogous art, Javed teaches wherein at least one of the program listings is available for viewing for a limited time (Paragraph 0054 teaches "the VPOP URL may subsequently used to validate whether the video is still within the rented duration,..." That means the video is only available for viewing for a set amount of time), the method further comprising allowing the user to extend the time of availability of said program (Paragraph 0054 and 0069 teach "if the video's rental duration has expired", the user is able to "extend the video's rental duration", thereby extending the time the video is available to be viewed).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Miuri's system to include a program available for viewing for a limited time, and allowing the user to extend the time of availability of the program, as taught by Javed, for the advantage of allowing for content like new movie releases that in the past was rented in video stores, to be viewed, rented, and renewed without having to walk outside the comforts of home.

8. **Claims 14, 34, 54, and 74** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 7,188,356) in view of Proehl et al. (US 6,532,589).

Consider **claims 14, 34, 54, and 74**, Miura does not explicitly teach allowing the user to set a reminder for at least one of the program listings.

In an analogous art, Proehl teaches allowing the user to set a reminder for at least one of the program listings (Col 8: lines 59-60 teach that the "user may edit the future scheduled activities..." where the scheduled activities include remind, record, pay per view, etc as taught on Col 8: lines 13-20. Col 8: lines 41-43 shows that the same scheduled activities on daily planner is the same as the ones shown on the TV planner 900).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Miura's system to include allowing users to set a reminder for at least one of the program listings, as taught by Proehl, for the advantage of providing a user-friendly system interface that accommodates all users by allowing for scheduled programming information to be presented in a format that is easy-to-read and understand (Proehl - col 1: line 59 – col 2: line 1), and allowing the user to be notified of desired content so that they will not miss programs that they desire to watch.

9. **Claims 15, 35, 55, and 75** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 7,188,356), in view of Proehl et al. (US 6,532,589), and further in view of Yoshinobu (US 5,734,444).

Consider **claims 15, 35, 55, and 75**, Miura and Proehl teaches a reminder was set (Proehl - Col 8: lines 59-60 teach that the "user may edit the future scheduled activities..." where the scheduled activities include remind, record, pay per view, etc as taught on Col 8: lines 13-20. Col 8: lines 41-43 shows that the same scheduled activities on daily planner is the same as the ones shown on the TV planner 900), but do not explicitly teach determining if the user is watching the program.

recording automatically said program if the user is not watching said program.

In an analogous art, Yoshinobu teaches determining if a user is watching a program.

recording automatically said program if the user is not watching said program (Yoshinobu teaches in Col 24: lines 51-59 if it is determined that the program is not being watched by the viewer the program is automatically recorded).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify the system of Miura and Proehl to record the program when the user is not watching the program for which a reminder is set, as taught by Yoshinobu, for the advantage of enabling the user to watch their desired program without fail, even when the user is not presently watching the program (Yoshinobu - Col 2: lines 30-35).

10. **Claims 17, 19, 37, 39, 57, 59, 77, and 79** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 7,188,356) in view of Ismail et al. (US 6,614,987).

Consider **claims 17, 37, 57, and 77**, Miura does not explicitly teach determining a personal profile based on gathered information relating to the user.

In an analogous art, Ismail determining a personal profile based on gathered information relating to a user (col 4: lines 13-34 teaches a preference database 116 that contains user viewing data that is generated by the preference agent 110 depending on the amount of time the particular category is watched by the user. The preference database acts as the personal profile of the user while the preference agent is the one that gathers information relating to the viewing data of the user).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Miura's system to determine a personal profile based on gathered information relating to a user, as taught by Ismail, for the advantage of allowing the device to better understand the viewing preference of the user in order to further tailor to the specific needs of unique viewers.

Consider **claims 19, 39, 59, and 79,** Ismail further teaches recording a program, wherein said program is selected based at least in part on the personal profile (Col 4: lines 28-34 teaches recordation and storage of programs according

to information from the preference database 116 that functions as the personal profile).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify the system of Miura and Ismail to record a program where the selected program is at least in part on the personal profile, as further taught by Ismail, for the advantage of relieving the user from the task of selecting programs to record from a huge amount of potentially hundreds of program selections (Ismail - Col 1: lines 48-50).

11. **Claims 18, 38, 58, and 78** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 7,188,356), in view of Ismail et al. (US 6,614,987), and further in view of Proehl et al. (US 6,532,589).

Consider **claims 18, 38, 58, and 78**, Miura and Ismail teaches wherein said program is selected based at least in part on the personal profile (Ismail - a personal profile is taught in Col 4: lines 13-34 referred to as preference database. Col 4: lines 28-34 teaches that a program can be selected for storage based on data from the preference database), but do not explicitly teach setting a reminder for a program.

In an analogous art, Proehl teaches setting a reminder for a program (Col 8: lines 59-60 teach that the "user may edit the future scheduled activities..." where the scheduled activities include remind, record, pay per view, etc as taught

on Col 8: lines 13-20. Col 8: lines 41-43 shows that the same scheduled activities on daily planner is the same as the ones shown on the TV planner 900).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify the system of Miura and Ismail to set a reminder for a program that is selected based at least in part on the personal profile, as taught by Proehl, for the advantage of notifying the user of desirable program that can be watched, alleviating the user from the task of going through programs and manually setting reminders.

12. **Claims 20, 40, 60, and 80** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (US 7,188,356) in view of Allport (US 6,483,548).

Consider **claims 20, 40, 60, and 80**, Miura teaches wherein the past, unrecorded program is indicated by an empty cell (73-Fig.6a; Col 16: line 62 – Col 17: line 3 teaches a blank cell of an unrecorded program where the program name is not indicated within the cell), wherein the allowing the user to scroll the program listings backwards in time (65 - Figs.6a-b, 7; Col 14: lines 13-16, Col 14: line 65 – Col 15: line 5) comprises:

Miura does not explicitly teach determining whether at least one row of the grid consists of empty cells; and collapsing the grid to remove the at least one row of empty cells.

In an analogous art, Allport teaches determining whether at least one row of the grid consists of empty cells; and collapsing the grid to remove the at least

one row of empty cells (Col 7: line 59 – Col 8: line 1; Col 9: lines 14-35; Col 10: lines 14-16).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Miura's system to include determining whether at least one row of the grid consists of empty cells; and collapsing the grid to remove the at least one row of empty cells, as further taught by Allport, for the advantage of displaying information in a more compact form, saving more display space, reducing the amount of empty cells and increasing the representational efficiency (Allport- Col 4: lines 56-66, Col 8: lines 5-7) providing the user with a more visually pleasing and intuitive interface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON K. LIN whose telephone number is (571)270-1446. The examiner can normally be reached on Mon-Fri, 9:00AM-6:00PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on (571)272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason Lin/

Examiner, Art Unit: 2425

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2425